

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KEEFE KAPLAN MARITIME, INC.

Plaintiff,

No.C05-0314 WDB

v.

**ORDER FOR SUPPLEMENTAL
BRIEFING AND RE REQUEST TO
SHORTEN TIME FOR APPLICATION
FOR SALE AND RIGHT TO CREDIT BID**

NIKOLAI TEHIN, and individual, *in personam*,
and the S/V ESCAPADE, Official No. 237297,
and her engines, gear, tackle,
appurtenances, etc., *in rem*

Defendants.

The Court has received plaintiff's letter, dated and filed August 23, 2005, requesting that the Court shorten time to hear plaintiff's Application for An Order Directing the Marshal to Conduct Admiralty Execution Sale and for Right to Credit Bid ("Motion for Sale and Credit Bid"). The Court ORDERS as follows.

1. **By September 2, 2005**, plaintiff MUST FILE AND SERVE supplemental papers responding to the following:

- a. Counsel's billing records state that there is a "party who alleges to have purchased Wells Fargo's mortgage interest in the Escapade." See, Cox Decl., at Ex. 7. Has that party been notified of these proceedings, and, if not, what is the justification for failing to notify

1 that party when the Admiralty Local Rules require plaintiff to serve
 2 “every . . . person . . . known to have an interest in the property”?

3 b. Counsel’s billing records state, “[p]hone call from Paul Kaplan
 4 discussing and agreeing how it is preferable to have Queeny from
 5 Arizona remain a sleeping dog.” Cox Decl., at Ex. 7. Who is
 6 “Queeny”? Is there any reason to believe that this person might have
 7 some interest in the vessel? Has this person been notified of these
 8 proceedings, and, if not, what is the justification for failing to notify
 9 that party when the Admiralty Local Rules require plaintiff to serve
 10 “every . . . person . . . known to have an interest in the property”?

11 c. Is there a reasonably reliable basis for knowing the market value of
 12 the vessel S/V Escapade, and, if so, what is the estimated market
 13 value of that vessel?

14 d. Plaintiff states that it is seeking interest under both the repair
 15 contract and Admiralty Local Rule 6-3. *E.g., compare*, Kaplan Decl.,
 16 at ¶¶11 and 12 with Application at 2:21. What is the proper source
 17 of authority for determining the rate of pre-judgment interest?
 18 Additionally, plaintiff has not identified the amount of each separate
 19 element of the requested judgment. Plaintiff must set forth an
 20 itemization of its requested judgment that separately identifies
 21 principal, storage, interest, and any other items sought in the
 22 judgment and clearly states the period (using dates certain) to which
 23 those amounts relate.

24
 25 2. The Court GRANTS plaintiff’s request to shorten time to hear its Motion
 26 for Sale and Credit Bid.

27 **On September 26, 2005, at 1:00 p.m.**, following the hearing on plaintiff’s Motion
 28 for Default Judgment, the Court will conduct a hearing in connection with plaintiff’s

1 Motion for Sale and Credit Bid. Plaintiff must immediately serve a copy of its Motion
2 for Sale and Credit Bid, response to items in paragraph 1 above together with a copy of
3 this Order on defendant and all other known interested non-parties.

4 All **oppositions** to plaintiff's Motion for Default Judgment **and/or** the Motion for
5 Sale and Credit Bid **and** all responses to the supplemental materials served in response
6 to paragraph 1 above must be filed and served **by September 16, 2005.**

7 Plaintiff waives the right to file a written reply.

8 IT IS SO ORDERED.

9
10 Dated: August 23, 2005

11 /s/ Wayne D. Brazil
12 WAYNE D. BRAZIL
United States Magistrate Judge

13 copies e-mailed to:
parties of record,
14 cc: wdb, stats

15 counsel for plaintiffs to
serve on defendants and other interested parties